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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,219	03/29/2004	Nancy J. Rabenold	01004.1030	2892
35856	7590	01/11/2005	EXAMINER	
LAVA GROUP LAW BY SMITH & FROHWEIN, LLC			PAIK, STEVE S	
P.O. BOX 88148			ART UNIT	
ATLANTA, GA 30356			PAPER NUMBER	
			2876	

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/812,219

Applicant(s)

RABENOLD ET AL.

Examiner

Steven S. Paik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-10 and 12-20 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of claiming the benefit under 35 U.S.C. 119(e) of United States provisional application, 60/458,713 filed on March 28, 2003.

### ***Claim Objections***

2. At the end of each group of claims under an independent claim, there is provided with a blank space before commencing with a new group of claims. It is deemed unnecessary. The applicant is respectfully requested to remove the superfluous space between groups of claims.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-10 and 12-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Pellerin (US 6,411,916B1).

Re claim 1, Pellerin discloses a system for evaluating the condition of an item, the system comprising the components of:

a sensor chamber (storage facility having sensors 100) including an interior area for housing an evaluation item (food/medication; col. 2, line 59 – col. 3, line 4), the interior area including a plurality of sensors (col. 3, ll. 5-58),

a controller (A network device connected to a database management system performs a variety of functions including control and information output.) that is communicatively coupled to the plurality of sensors (The sensor is also in electronic communication with a data management system for storing the product temperature data for later downloading to the data management system) and operative to control the operation of the plurality of sensors and obtain data readings (temperature readings) from the plurality of sensors;

an information acquisition engine (a data management system, in general, having a structure of a computer network acquires information from sensors 100 via an output interface) operable to receive information regarding the evaluation item (col. 3, line 58-col. 4, line 56);

a database (data management system) containing expected results (governmental or local guidelines) pertaining to the evaluation item; and

a damage calculator (col. 1, ll. 9-16 discloses a few situations that may be considered as a damage to a retail store/business) that is operable to compare the data readings from the plurality of sensors and the expected results (government food safety regulation) from the database to identify particular characteristics pertaining to the evaluation item (food/medication).

Re claim 2, Pellerin discloses the system as recited in rejected claim 1 stated above, further comprising a console (the data management system is connected with a network device that has a function of controlling and processing data) and, wherein the information acquisition engine is operable to receive information regarding the evaluation item from the console.

Re claim 3, Pellerin discloses the system as recited in rejected claim 1 stated above, further comprising a network interface (output interface 104) and, where the information acquisition engine is operable to receive information regarding the evaluation (such as

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government food regulation) by searching for information through the network interface, identifying sources for information and extracting the information.

Re claim 4, Pellerin discloses the system as recited in rejected claim 3 stated above, wherein the network interface provides access to a manufacturing and industry data source (government/local regulations).

Re claim 5, Pellerin discloses the system as recited in rejected claim 1 stated above, further comprising a document capture device (such as scanner; col. 6, ll. 22-29) and wherein the information acquisition engine is operable to receive information regarding the evaluation item through the document capture device.

Re claim 6, Pellerin discloses the system as recited in rejected claim 1 stated above, wherein the controller is operable to initially control the plurality of sensors to obtain evaluation item identification information and, based at least in part on the evaluation item identification information (product identification), is operative to control the plurality of sensors to obtain data readings from the plurality of sensors based at least in part on the evaluation item identification information (col. 5, line 51 – col. 6, line 21).

Re claim 7, Pellerin discloses the system as recited in rejected claim 6 stated above, wherein the database includes a plurality of control sequences (data management system tracks the temperature of plural sensors. Depending upon the temperature data, sensor 100 also provides a visual or aural indication for store workers to perform specific actions with respect to the product.) and, the controller is operative to initially control the plurality sensors based on a particular control sequence selected from the plurality of control sequences (col. 4, line 30- col. 6, line 42).

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Re claim 8, Pellerin discloses the system as recited in rejected claim 6 stated above, wherein the database includes a plurality of control sequences and, the controller is operative to control the plurality sensors to obtain data readings based on a particular control sequence selected from the plurality of control sequences based at least in part on the evaluation item identification information (col. 4, line 30- col. 6, line 42).

Re claim 9, Pellerin discloses the system as recited in rejected claim 1 stated above, wherein the sensor chamber includes a plurality of environmental controls and wherein the controller is further operative to control the state of the environmental controls (such as temperature controls).

Re claim 10, Pellerin discloses the system as recited in rejected claim 6 stated above, wherein the sensor chamber includes a plurality of environmental controls and wherein prior to controlling the plurality of sensors to obtain data readings the control sets the state of the environmental controls based at least in part on the evaluation item identification information (product identification information).

Re claim 12, Pellerin discloses a method of performing an evaluation for an item (food/medication), the evaluation assisting a decision maker in a decision regarding the item when the decision maker does not have direct access to the item, the method comprising the steps of:

detecting the presence of an evaluation item entered into a sensor chamber (a store clerk can physically detect the presence of an evaluation item entered into a sensor chamber (storage facility or display fixture 90);

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execute a first sensor (input probe 102 senses the actual product temperature) sequence to identify the evaluation item (food);

based on the identification of the evaluation item, adjust the ambient environment condition (temperature) of the sensor chamber and execute a second sensor (temperature of a sensor) sequence to obtain sensor sequence result data (col. 4, ll. 6-24);

comparing the sensor sequence result data to a set of expected data (governmental/local regulation), the set of expected data selected at least in part on the results of executing the first sensor sequence; and

identify any particular characteristics (such as expiration date) of the evaluation item based on differences between the sensor sequence result data and the set of expected data.

Re claim 13, Pellerin discloses the method as recited in rejected claim 12 stated above, wherein, prior to executing the first sensor sequence, the method includes the step of entering preliminary data pertaining to the evaluation item, the preliminary data being operative to assist in identifying the item (col. 6, ll. 53-58).

Re claim 14, Pellerin discloses the method as recited in rejected claim 13 stated above, wherein, the first sensor sequence utilized in the step of executing the first sensor sequence is selected based at least in part on at least a portion of the preliminary data (product type and governmental/local regulation).

Re claim 15, Pellerin discloses the method as recited in rejected claim 12 stated above, wherein, the second sensor sequence is selected from a plurality of sensor sequences based at least in part on the results of executing the first sensor sequence (sensing and storing an initial temperature data in a data management system via a network interface).

Re claim 16, Pellerin discloses the method as recited in rejected claim 12 stated above, wherein, the second sensor sequence is selected from a plurality of sensor sequences based at least in part on the results of executing the first sequence (col. 4, ll. 6-56).

Re claim 17, Pellerin discloses the method as recited in rejected claim 12 stated above, wherein, the sensors in the sensor chamber can be moved and the step of adjusting the ambient environment condition of the sensor chamber further comprises the step of moving the sensors based at least in part on the results of executing the first sensor sequence (col. 4, ll. 6-56).

Re claim 18, Pellerin discloses the method as recited in rejected claim 12 stated above, wherein, the expected data includes manufacturing and industry data pertaining to the evaluation item and the step of comparing sensor sequence result data to a set of expected data includes the steps of:

accessing the manufacturing and industry data (governmental/local regulation) based on the results of executing the first sensor sequence (initial temperature data); and

comparing the sensor sequence result data to the manufacturing and industry data (governmental/local regulation).

Re claim 19, Pellerin discloses the method as recited in rejected claim 12 stated above, further comprising the step of classifying (grouping) the particular characteristics into one of a plurality of classes (sold out/expired).

Re claim 20, Pellerin discloses a system for evaluating the condition of an item to assist in making a decision regarding the item, the system comprising the components of:

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a sensor chamber (storage facility/display fixture 90) including an interior area for housing an evaluation item, the interior area including a plurality of electronically adjustable and moveable sensors (100; col. 3, ll. 5-19) and

a plurality of environmental controls (temperature controller);

an information acquisition engine (a data management system, in general, having a structure of a computer network acquires information from sensors 100 via an output interface) operable to receive information regarding the evaluation item;

a controller (A network device connected to a database management system performs a variety of functions including control and information output.) that is communicatively coupled to the plurality of sensors and environmental controls and operable to:

initially control the operation of the plurality of sensors and, in conjunction with any information obtained from the information acquisition engine, to identify the evaluation item (food/medication);

in response to identifying the evaluation item, control the operation of the plurality of environment controls to establish an environmental setting within the sensor chamber that is conducive for further evaluation of the evaluation item; and

further control the operation of the plurality of sensors to move the sensors to an optimal position (proximity of the product) and obtain data readings (temperature data of an ambient temperature) from the plurality of sensors;

a database (a data management system) containing expected results (governmental/local regulation) pertaining to the evaluation item; and

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a damage calculator that is operable to compare the data readings from the plurality of sensors and the expected results from the database to identify particular characteristics pertaining to the evaluation item (col. 1, ll. 9-16 discloses a few situations that may be considered as a damage to a retail store/business).

***Allowable Subject Matter***

5. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: none of the prior art of the record discloses, teaches or fairly suggests the claimed system comprising, among other things, a controller that is operable to detect when an evaluation item is placed into the interior of a sensor chamber.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Cho et al. (US 6,755,243B2) disclose a refrigerator comprising at least one chamber with a temperature sensor; Jennings et al. (US 6,592,033B2) discloses a method for recognizing an individual item.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven S. Paik whose telephone number is 571-272-2404. The examiner can normally be reached on Mon - Fri (5:30am-2:00pm).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Steven S. Paik  
Primary Examiner  
Art Unit 2876

ssp